IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELALTE SIDE

WRIT PETITION NO.1200 OF 2005

Yogeshwar Education Society. ... Petitioner.

Vs.

Shri Arun Pandharinath Salunke. ...Respondents.

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Mr. D. M. Gupte for the Petitioner.
Mr. Mahesh Subramaniyam with Mr. S.V. Pitre for Respondent No.1.
Mr. M.H. Solkar, AGP for Respondent No.5.

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CORAM : DR.D.Y.CHANDRACHUD, J.

August 30, 2005.

P.C.:

This petition under Article 227 of the Constitution, is directed against an order passed by the School Tribunal on 25th October 2004 setting aside the order by which the services of the First Respondent came to be terminated and directing reinstatement with full back wages from 30th May 2003.

The First Respondent was working as an Assistant Teacher with the Second Respondent from 2nd November 1998. The services of the First Respondent were terminated on 30th May

2003. The First Respondent thereupon moved the School Tribunal which allowed the appeal by the impugned order dated 25th October 2004. The contention of the management before the School Tribunal was that the First Respondent had been appointed to teach in unrecognised divisions of the Vth, VIth and VIIth Standards. However, these Divisions were required to be closed down upon which a letter of termination was issued.

It was urged that the School Tribunal has proceeded on the basis of the letter dated 31st March 2001 of the Education Officer of the Zilla Parishad stating that all the divisions from Standards V to X in the School were entitled to grant-in-aid from June 2000 and that consequently, the divisions in which the teacher in this case was working were duly approved. However, according to the Petitioner, the Zilla Parishad by its letter dated 10th November 2004 had clarified that the reference to Standards V to VII in the earlier letter dated 31st March 2001 was an inadvertent error and that only Standards VIII to X in the School were aided and approved. The Zilla Parishad has clarified in its letter that the Divisions from Standards V to VII had not been approved and there was no question of granting any aid in respect thereof.

An affidavit in reply has been filed in these proceedings by the Deputy Education Officer of the Zilla Parishad stating that the First Respondent was appointed in the unauthorised classes of Standards V to VII which had never been permitted by the State Government. The School had started conducting classes of Standards V to VII unauthorisedly and since no permission was granted by the State, the grant-in-aid had never been released in respect of the aforesaid classes. Hence, it is submitted that the finding recorded by the School Tribunal that Standards V to VII were recognised and aided is erroneous.

From the aforesaid narration, it appears that the School Tribunal has proceeded entirely on the basis of the Education Officer's communication dated 31st March 2001. That communication was withdrawn by a subsequent letter dated 10th November 2004 of the Education Officer (Secondary), Zilla Parishad, which clarifies that the approved and aided Divisions in the School were from Standards VIII to X only. This position has also been supported in the affidavit filed by the Deputy Education Officer of the Zilla Parishad.

In these circumstances, it would be appropriate to direct a fresh consideration of the appeal filed by the First Respondent before the School Tribunal on the basis of the aforesaid material which has come on record. In order to facilitate a fresh order being passed by the School Tribunal, the impugned order dated 25th October 2004 is quashed and set aside. Parties are directed to appear before the School Tribunal for receiving directions on 12th September 2005. The School Tribunal shall endeavour to expeditiously dispose of the appeal and preferably by 31st January 2006. The petition is accordingly disposed of.

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